

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

23 CRIMINAL APPLICATION NO. 4802 OF 2016

VISHWANATH S/O SHAMRAO SONAWANE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. K.N.Shermale, Advocate for Applicant.

Mr. S.B.Yawalkar, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th SEPTEMBER, 2016

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PER COURT :

1. Heard the learned counsel for applicant at great length and perused the entire charge sheet. He drew my attention to the dying declaration of Meerabai @ Rohini Vishwanath Sonawane recorded by the Executive Magistrate and particularly to the last question, wherein she has replied that she has no complaint against anybody. The learned counsel further argued that in the medical history, deceased Meerabai has stated that her death is accidental and, therefore, those papers be called. He further argued that the dying declarations of deceased Meerabai are tutored dying declarations.

2. The learned A.P.P. opposed the application by contending that the offence of the crime in question is serious.

3. Perusal of the charge sheet shows that the F.I.R. was registered on the basis of the statement of Meerabai recorded at Civil Hospital, Nashik on 14/01/2016. She reported to police while recording her statement that on 13/01/2016 there was quarrel between her and her husband. In that quarrel, she poured kerosene on her person and thereafter her husband set her ablaze. This first version of the victim of the crime is consistent with her second version in the form of dying declaration recorded by the Executive Magistrate. She has again disclosed to the Executive Magistrate that after quarrel with her husband, she poured kerosene on her person and then her husband set her ablaze by burning match stick. True it is that, to the last question the deceased has replied that she has no grievance against anybody, but the applicant/accused can not make capital of that statement in the dying declaration. This is particularly so when the dying declarations are consistently pointing out that the applicant had incinerated his wife – deceased Meerabai.

4. At the time of bail, the documents sought to be relied by the applicant/accused can not be called.

5. As the offence is punishable with life imprisonment or death, no case for bail is made out. Hence, the following order.

(i) The Criminal Application stands rejected.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4802.2016